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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN JOSE DIVISION

12 \*E-FILED - 5/11/06\*

13 UNITED STATES OF AMERICA, )  
14 Plaintiff, )  
15 v. )  
16 JOSE SOLER, )  
17 a/k/a antboogie, )  
18 a/k/a Jas125, )  
19 Defendants. )

No. CR 06-00054-RMW

ORDER AFTER HEARING  
EXCLUDING TIME UNDER THE  
SPEEDY TRIAL ACT

20 On May 8, 2006, the above-captioned case came on for a status conference hearing.  
21 Defendant Jose Soler, who was present, was represented by defense attorney N.A. Christensen,  
22 JR., who was present. The United States was represented by Assistant U.S. Attorney Mark L.  
23 Krotoski.

24 Defense counsel Christensen requested a substitution of counsel, for another attorney would  
25 could address the computer-related issues in the case. Defense counsel Carleen R. Arlidge, who  
26 was present, accepted substitution as counsel for defendant Soler, and was substituted by the  
27 Court. Defense counsel Christensen represented on the record that he provided the discovery in  
28 court to defense counsel Arlidge.

1 At the hearing, the Court set a status conference for June 12, 2006 at 9:00 a.m..

2 The parties agreed and the Court independently found that time should be excluded under the  
3 Speedy Trial Act from May 8, 2006 until June 12, 2006, for substitution of counsel, and to allow  
4 counsel time to prepare, pursuant to 18 U.S.C. §§ 3161(h)(8)(A), 3161(h)(8)(B)(iv) (reasonable  
5 time necessary for effective preparation taking into account the exercise of due diligence and  
6 continuity of counsel).

7 Specifically, the ends of justice served by the granting of the continuance outweigh the best  
8 interests of the public and the defendant in a speedy trial, after considering the relevant factors:

- 9 (i) The failure to grant such a continuance in the proceeding would be likely to result in a  
10 miscarriage of justice since new defense counsel needs reasonable time to prepare and  
11 pursue other investigation, particularly given the discovery provided (including a  
12 voluminous amount of digital evidence);
- 13 (ii) The failure to grant such a continuance would deny counsel for the defendant reasonable  
14 time necessary for effective preparation, taking into account the exercise of due diligence;
- 15 (iii) The request for the exclusion of time is also based on substitution of new counsel, and the  
16 government concurs that time is warranted and appropriate for these matters under the  
17 circumstances;
- 18 (iv) The request for the exclusion of time is reasonable and specifically limited in time until  
19 June 12, 2005, after allowing time for reasonable time for investigation and preparation.

20 For the foregoing reasons, the ends of justice served by the granting of such continuance  
21 outweigh the best interests of the public and the defendant in a speedy trial, and given that the  
22 defense needs reasonable time necessary for effective preparation, taking into account the  
23 exercise of due diligence. 18 U.S.C. S 3161(h)(8)(A).

24 This written order memorializes the oral rulings of the Court made on May 8, 2006  
25 Dated: May 11, 2006

26  
27 /s/ Ronald M. Whyte  
28 RONALD M. WHYTE  
United States District Judge